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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re N.H., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

C.H. et al.,

Defendants and Appellants.

E061002

(Super.Ct.No. RIJ1101092)

OPINION

APPEAL from the Superior Court of Riverside County. Harry A. Staley, Judge.
(Retired judge of the Kern Super. Ct. assigned by the Chief Justice pursuant to art. VI,
§ 6 of the Cal. Const.) Affirmed.

Shobita Misra, under appointment by the Court of Appeal, for Defendant and
Appellant C.H.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and
Appellant G.H.

Gregory P. Priamos, County Counsel, Anna M. Marchand, Deputy County Counsel, for Plaintiff and Respondent.

I

INTRODUCTION

Mother and father (parents) appeal an order terminating their parental rights to N.H. (born in November 2010) under Welfare and Institutions Code section 366.26.¹ Father contends the juvenile court abused its discretion by denying his petition brought under section 388 (section 388 petition) and terminating parental rights. Parents further contend the trial court erred in rejecting the beneficial parent relationship exception to terminating parental rights (§ 366.26, subd. (c)(1)(B)(i)). Parents join in each other's arguments on appeal. We conclude the juvenile court did not abuse its discretion in denying father's section 388 petition or err in rejecting the beneficial parent relationship exception to adoption. The judgment is affirmed.

II

FACTS AND PROCEDURAL BACKGROUND

On August 16, 2011, the Department of Public Social Services, Child Protective Services (CPS) filed a juvenile dependency petition under section 300, subdivisions (b) (failure to protect) and (g) (no provision for support). The petition alleges that N.H. was detained in a protective foster home on August 15, 2011, at 1:30 a.m. CPS reported that

¹ Unless otherwise noted, all statutory references are to the Welfare and Institutions Code.

on August 14, 2011, mother dropped off N.H. at a neighbor's house with no provisions. Mother's whereabouts were unknown. She was homeless, abusing methamphetamine, marijuana, and alcohol in the child's presence, had been diagnosed with bipolar disorder, and was not taking her prescribed medications. In addition, mother had been arrested on August 5, 2011, and was facing criminal charges for conspiracy to commit robbery. Mother also had a prior drug-related conviction.

The juvenile dependency petition further reported that parents had engaged in domestic violence in N.H.'s presence and father had a chronic, unresolved substance abuse history, which included continued abuse of methamphetamine, marijuana, and alcohol in N.H.'s presence. Father's criminal history dated back to 1994, and included drug-related charges, robbery, accessory to a shooting, and parole violations. On August 14, 2011, father was arrested and incarcerated for robbery, resisting an officer, and possession of a hypodermic needle.

CPS stated in its detention report that on August 2, 2011, CPS received a referral that parents were abusing drugs and alcohol. They reportedly abused "speed," were "IV users," and were continually fighting. CPS responded to the referral call but, upon arrival at parents' residence, N.H. and mother were not home. CPS responded to another referral call on August 15, 2011. N.H. had been left at the home of mother's neighbor, Monica. Monica informed CPS that when mother dropped off N.H. at 10:00 p.m. on August 14, 2011, mother appeared to be under the influence of methamphetamine. Mother told Monica she was currently unable to care for N.H. and did not have a safe place for her. Mother had recently been evicted from her apartment and did not have any

provisions for N.H. Her current phone number and location were unknown. Mother had said she would pick up N.H. the following day.

CPS received a call from mother on August 15, 2011, and met with her. Mother admitted being under the influence of methamphetamine. She said N.H. was her only child and father was mother's boyfriend. Father was 35 years old and had started abusing drugs when he was 15 years old. He had three older children who lived with their mothers. Mother was 25 years old. She started abusing methamphetamine, marijuana, and alcohol when she was 13 or 15 years old and ran away from home at age 16.

Mother met father in 2005. They both were abusing methamphetamine then. At the end of 2005 or early 2006, father was arrested and served three years in prison. Mother was arrested a couple of times in 2007 for possession of controlled substances. She was ordered to participate in a two-year drug treatment program and enrolled in an intensive outpatient program. Two days after being sober for one year, mother relapsed on methamphetamine. Mother participated in an inpatient program and then was readmitted to the intensive outpatient program. After completing that program in 2009, mother participated in Narcotics Anonymous (NA) meetings. In 2009, mother reunited with father at an NA meeting and they started living together. Mother said she was drug-free during her pregnancy with N.H. and remained sober until April 2011. Father also relapsed. Parents began abusing methamphetamine in N.H.'s presence.

On August 17, 2011, the juvenile court ordered N.H. detained. The court further ordered reunification services for parents and supervised visitation once a week. At the jurisdiction hearing in September 2011, the court found the juvenile dependency petition

allegations true, adjudged N.H. a dependent of the court, and ordered N.H. removed from parents' custody. Parents agreed to participate in their case plans, with projected completion dates of March 2012. Mother was required to complete counseling, domestic violence, parenting, and substance abuse programs. She also was ordered to submit to psychological and medication evaluations. Father was required to complete counseling and anger management, parenting and substance abuse programs.

N.H. remained in her current foster home. CPS was ordered to continue providing parents with reunification services. The court authorized CPS to liberalize mother's visitation to include overnight and weekend visits. The court ordered CPS to provide father with photos of N.H. every 90 days while he was incarcerated. In September 2011, father was sentenced to 3 years in prison. His expected release date was in February 2013.

In September 2011, mother began participating in an intensive outpatient substance abuse program. Mother was discharged from the program in January 2012, after abusing methamphetamine in December 2011 and January 2012. Mother was convicted of shoplifting in November 2011, sentenced to 36 months summary probation, and failed to report as ordered for the Sheriff Labor Program in December 2011. Thereafter mother was placed on house arrest in December 2011 in lieu of the labor program.

Mother entered an inpatient drug program in February 2012. Mother also participated in counseling. Father completed independent study programs in anger management and parenting. At the six-month review hearing in March 2012, the juvenile

court continued parents' reunification services. The court authorized visitation with father upon his release and visitation with mother as previously ordered.

CPS reported in its 12-month status review report in September 2012, that mother had completed domestic violence and parenting programs in June and July 2012. In June 2012, mother also completed a 90-day substance abuse treatment program. Mother's visits were liberalized to bi-weekly, four hour, unsupervised day visits. In July 2012, N.H.'s caregiver noticed N.H.'s behavior started changing. N.H. started exhibiting negative behaviors before, during, and after visits with mother, including crying and throwing tantrums. Mother started arriving late to visits and cancelled some visits. In August 2012, mother relapsed. Mother's visits were decreased to two hour visits, once a week and mother's reunification services were terminated in September 2012. Father continued to receive services.

In January 2013, father was released from prison and enrolled in reunification services, including therapy. He was employed and participated in weekly, supervised visits with N.H. Father enrolled in a parenting program and participated in an outpatient substance abuse program, which he did not complete because it interfered with work. In June 2013, father moved into a sober living residence and started outpatient services. Father was looking for employment.

In May 2013, mother completed an inpatient substance abuse program but was unemployed and did not have a stable residence. In June 2013, mother was discharged from the sober living home program because she committed violent acts and screamed obscenities. In July 2013, mother still did not have a job or stable housing and continued

to struggle with substance abuse.

N.H. continued to do well in her foster home. CPS reported in February 2013 that N.H. was a happy, well adjusted two year old. She had bonded with her foster family. However, her foster family was unable to provide long term placement for N.H. Mother continued to participate in weekly two-hour supervised visits with N.H. The visits went well. N.H. was happy to see her. Mother attended N.H.'s foster parents' family functions, including holiday celebrations and N.H.'s birthday party. After father's release from prison, parents visited N.H. together. The visits were appropriate.

At the September 2013, 24-month status review hearing, the court terminated father's reunification services and set a section 366.26 hearing. Father had recently enrolled in an inpatient substance abuse program, which he completed in December 2013. In November 2013, father was employed remodeling a sober living facility.

In November 2013, N.H. was placed with her paternal uncle and aunt, who were prospective adoptive parents for N.H. They were willing to consider continued supervised contact between N.H. and mother. CPS concluded N.H. was adoptable. Parents' visits were reduced to monthly visits, although parents were visiting every two weeks. The visits were not causing N.H. to exhibit any behavioral problems.

In April 2014, mother and father filed section 388 petitions, requesting additional reunification services. Mother stated in her petition that she had completed a residential substance abuse program and had tested clean. Mother enrolled in a 90-day substance abuse treatment program in December 2013. She also was attending Alcoholics Anonymous and Narcotics Anonymous (AA/NA) meetings regularly and consistently

visiting N.H. Mother was living at a sober living home. Father stated in his section 388 petition that his circumstances had changed and he believed it would be in N.H.'s best interest to vacate the September 17, 2013, order terminating his reunification services, because N.H. was bonded to him.

On April 15, 2014, the juvenile court heard testimony and argument on parents' section 388 petitions. During the hearing, father testified that, after his reunification services were terminated on September 17, 2013, he completed a parenting program on December 12, 2013, and implemented what he learned by being patient, attentive to N.H.'s feelings, and loving when N.H. was upset and crying. Father also was participating in a parenting interaction program which strengthens parenting skills and provides a support system. In addition, father completed an anger management program on December 3, 2013. The course helped him use passive listening techniques when disagreeing with someone.

Father also completed a 90-day intensive inpatient program in December 2013, and moved into a sober living home, where he is drug tested once a month. Father tested negative throughout the inpatient program and while residing in the sober living home. Father attended NA meetings five times a week and completed individual counseling. Father and mother were attempting to work out their relationship issues. After father's services were terminated, he obtained appropriate housing at a sober living home, where N.H. could live with father. Father was working full time and maintained consistent visitation with N.H. During visits, N.H. called him "Daddy," ran up to him, and showed love and affection. Father believed it would be in N.H.'s interests to receive

family maintenance or additional reunification services because it would strengthen N.H. and father's bond.

Mother testified she completed a 90-day inpatient substance abuse program in March 2014, and had been sober for four months. Mother was attending AA/NA meetings five or six times a week but was not participating in an aftercare program. Parents lived in the same sober living home and were trying to work out their relationship issues. They wanted to parent N.H. together, even if they are not romantically involved. During visits, N.H. called her "Mommy" and hugged her. Mother visited N.H. weekly, with the exception of a few missed visits. Mother had a part-time job, was looking for additional work, and was planning to start school full time. Her sister was going to help with childcare. Mother was receiving mental health care and believed her mental health was better than ever before.

After hearing testimony and argument, the court denied parents' section 388 petitions. The court found that, although father established changed circumstances, granting parents' petitions was not in N.H.'s best interest. The juvenile court then conducted a section 366.26 hearing and terminated parents' parental rights, freeing N.H. for adoption by her paternal uncle and aunt.

III

DENIAL OF FATHER'S SECTION 388 PETITION

Father contends the juvenile court abused its discretion in denying his section 388 petition. Father argues that the juvenile court found his circumstances had changed but erred in finding that granting his section 388 petition was not in N.H.'s best interests.

A. Applicable law

“A juvenile court order may be changed, modified or set aside under section 388 if the petitioner establishes by a preponderance of the evidence that (1) new or changed circumstances exist, and (2) the proposed change would promote the best interest of the child. [Citation.] The parent bears the burden to show both “a legitimate change of circumstances” and that undoing the prior order would be in the best interest of the child. [Citation.] The petition is addressed to the sound discretion of the juvenile court, and its decision will not be overturned on appeal in the absence of a clear abuse of discretion. [Citation.]” (*In re S.J.* (2008) 167 Cal.App.4th 953, 959-960 [Fourth Dist., Div. Two].)

In evaluating whether parents have met their burden to show changed circumstances, the trial court should consider: (1) the seriousness of the problem that led to the dependency, and the reason for any continuation of that problem; (2) the strength of relative bonds between the dependent children to both parent and caretakers; and (3) the degree to which the problem may be easily removed or ameliorated, and the degree to which it actually has been. (*In re Kimberly F.* (1997) 56 Cal.App.4th 519, 532.) These factors become less significant once reunification services have been terminated, as in the instant case. This is because, “[a]fter the termination of reunification services, . . . ‘the focus shifts to the needs of the child for permanency and stability’ [citation].” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.)

B. Discussion

Even assuming father’s circumstances had changed, the juvenile court did not abuse its discretion in denying father’s section 388 petition because father was also

required to establish that granting his petition was in N.H.'s best interests. There was minimal evidence supporting such a finding, with substantial evidence to the contrary. N.H. was removed from parents' care when she was nine months old, in August 2010. At that time, father was incarcerated and was not released from prison until January 2013. Father did not have any contact with N.H. while incarcerated. After his release in January 2013, father's visitation consisted of supervised, weekly, 2-hour visits. In November 2013, parents' visits were reduced to monthly visits, although N.H.'s foster parents permitted parents to visit N.H. more frequently. Father's attorney stated at the section 388 hearing that father regularly visited N.H. once a week for one to two hours. The visits were always supervised.

Although father regularly visited N.H. over about a 15-month period and the visits went well, there is no evidence father ever held a parenting role in N.H.'s life, that N.H.'s bond with father was strong, or that severing N.H.'s bond with father would cause N.H. to suffer long-term, serious emotional damage. N.H. was an infant when she was removed from mother's care and there is no evidence N.H. was bonded to father at that time. She was living with mother, who dropped her off overnight with various neighbors, without any provisions.

The juvenile court could also reasonably conclude that N.H.'s bond with her prospective adoptive parents was stronger than that of her bond with father. N.H. had lived with her prospective adoptive parents for about five months, since November 2013, and was thriving and well-adjusted in their home. Furthermore, N.H.'s prospective adoptive parents, who were paternal relatives, had indicated they were willing to allow

father to continue visiting N.H.

In addition, although father had remained sober for over a year, there remained the risk he or mother would relapse. Parents had abused drugs since their teenage years, with numerous attempts to rehabilitate and relapses. At the time of the section 366.26 hearing, father had remained sober after his release from prison, for 15 months. Mother had been sober after completing a 90-day residential substance abuse program, which she completed in March 2014, one month before the section 366.26 hearing. Considering mother's extensive history of relapsing after rehabilitating, there was a significant risk that she would relapse once again. Parents lived in the same sober living residence and indicated that they intended to work out their differences in their relationship and coparent N.H. There remained a significant risk that mother would relapse and that, if either mother or father relapsed, the other would as well, thus exposing N.H. to a potentially unstable, unsafe environment.

Under such circumstances, the court did not abuse its discretion in concluding it was not in N.H.'s best interests to delay N.H.'s adoption by setting aside the order terminating father's reunification rights. Father has made admirable progress in turning his life around but has done so too late to regain custody of N.H. "The reality is that childhood is brief; it does not wait while a parent rehabilitates himself or herself. The nurturing required must be given by someone, at the time the child needs it, not when the parent is ready to give it. [¶] 'The Legislature has expressed increasing concern with the perceived and accurate reality that time is of the essence in offering permanent planning for dependent children.' [Citation.]" (*Jones T. v. Superior Court* (1989) 215 Cal.App.3d

240, 251.)

At the section 388 hearing, father's attorney requested the court order legal guardianship. Although guardianship may be a more stable solution than foster care, it is not irrevocable and thus falls short of the secure and permanent placement intended by the Legislature. (*Jones T. v. Superior Court, supra*, 215 Cal.App.3d at p. 251.)

Continuity in a legal guardianship or foster placement is not equivalent to the security and stability of a permanent home. "The goal of permanency planning is to end the uncertainty of foster care and allow the dependent child to form a long-lasting emotional attachment to a permanent caretaker. 'Foster placement, being temporary, does not do the trick because it warns the adults against any deep emotional involvement with the child. Even adoptive parents may hesitate to make a full commitment to the child as long as the placement is not irrevocable.' [Citation.]" (*In re Emily L.* (1989) 212 Cal.App.3d 734, 742, quoting *In re Micah S.* (1988) 198 Cal.App.3d 557, 566.) Under circumstances in which father's interaction with N.H. was relatively limited, and N.H. was closely bonded to her prospective adoptive family, we conclude the juvenile court did not abuse its discretion in denying father's section 388 petition.

IV

BENEFICIAL PARENT RELATIONSHIP EXCEPTION

Parents contend the juvenile court erred in rejecting the beneficial parent relationship exception to terminating parental rights (§ 366.26, subd. (c)(1)(B)(i)). We disagree.

A. Applicable Law

At the section 366.26 hearing, the juvenile court's task is to select and implement a permanent plan for the dependent child. When there is no probability of reunification with a parent, adoption is the preferred permanent plan. (§ 366.26, subd. (b)(1); *In re Marina S.* (2005) 132 Cal.App.4th 158, 164.) If the juvenile court finds by clear and convincing evidence that a child is likely to be adopted, the juvenile court must terminate parental rights, unless one of several statutory exceptions applies. (§ 366.26, subd. (c)(1); *Marina S.*, at p. 164.)

Under section 366.26, subdivision (c)(1)(B)(i), the parent relationship exception may apply when a parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i); see *In re Derek W.* (1999) 73 Cal.App.4th 823, 826 [“parent has the burden to show that the statutory exception applies”].) The “benefit” prong of the exception requires the parent to prove his or her relationship with the child “promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575 [“the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer”].) No matter how loving and frequent the contact, and notwithstanding the existence of an “emotional bond” with the child, “the parents must show that they occupy ‘a parental role’ in the child’s life.” (*In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108; *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419.)

The relationship that gives rise to this exception to the statutory preference for adoption “characteristically aris[es] from day-to-day interaction, companionship and shared experiences. Day-to-day contact is not necessarily required, although it is typical in a parent-child relationship.” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.)

Moreover, “[b]ecause a section 366.26 hearing occurs only after the court has repeatedly found the parent unable to meet the child’s needs, it is only in an extraordinary case that preservation of the parent’s rights will prevail over the Legislature’s preference for adoptive placement.” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350; see *In re K.P.* (2012) 203 Cal.App.4th 614, 621.) The juvenile court may consider the relationship between a parent and a child in the context of a dependency setting, but the overriding concern is whether the benefit gained by continuing the relationship between the biological parent and the child outweighs the benefit conferred by adoption. (*In re Lukas B.* (2000) 79 Cal.App.4th 1145, 1155-1156; *In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

B. Standard of Review

California courts have disagreed as to the applicable standard of review for an appellate challenge to a juvenile court ruling rejecting a claim that an adoption exception applies. Most courts have applied the substantial evidence standard of review. We agree with the view expressed in the recent decision, *In re K.P.*, *supra*, 203 Cal.App.4th at pages 621-622, “that the review of an adoption exception incorporates both the substantial evidence and the abuse of discretion standards of review. . . . [W]hether an adoption exception applies involves two component determinations: a factual and a

discretionary one. The first determination—most commonly whether a beneficial parental or sibling relationship exists . . . is, because of its factual nature, properly reviewed for substantial evidence. [Citation.] The second determination in the exception analysis is whether the existence of that relationship or other specified statutory circumstance constitutes ‘a compelling reason for determining that termination would be detrimental to the child.’ [Citations.] This “‘quintessentially” discretionary decision, which calls for the juvenile court to determine the *importance* of the relationship in terms of the detrimental impact that its severance can be expected to have on the child and to weigh that against the benefit to the child of adoption,’ is appropriately reviewed under the deferential abuse of discretion standard. [Citation.]” (*In re K.P.*, *supra*, 203 Cal.App.4th at pp. 621-622, quoting *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315.) We likewise apply the composite standard of review here.

C. Discussion

During the section 366.26 hearing, parents’ attorneys argued the beneficial parent relationship exception applied because they were closely bonded to N.H., they had consistently visited her, and N.H. would benefit from continuing contact with parents. Mother’s attorney argued that the juvenile court should apply the beneficial parent relationship exception and order N.H. placed in a legal guardianship with her paternal uncle and aunt, rather than order adoption.

The court acknowledged that parents had maintained regular visitation and contact with N.H., and there would be some benefit to continuing parents’ relationship with N.H. The juvenile court, however, concluded the beneficial parent relationship exception to

adoption did not apply, explaining: “[C]ertainly . . . the parents have maintained regular visitation and contact with the child. . . . I think there’s certainly an indication, as Minor’s counsel has suggested, that there certainly would be some benefit to that continued relationship as it exists, but the Court cannot find that termination of . . . those rights would outweigh the benefit of adoption. [¶] . . . [¶] So the court is finding . . . that exception does not apply”

Father argues he established the exception applies, not only because he maintained regular visitation and contact with N.H. but, in addition, because severance of father’s bond with N.H. would deprive her of the substantial positive attachment and cause great harm to N.H. But, as discussed in the preceding section, there was little if any evidence that father ever served in a parental or caregiving role during N.H.’s lifetime. Father’s primary contact with N.H. began after his release from prison in January 2013, and consisted of weekly, supervised, one- to two-hour visits. Although father and N.H. bonded during this visitation, there is no evidence their relationship was of a close, parental nature or that adoption by N.H.’s paternal uncle and aunt would be harmful to N.H., particularly since N.H.’s aunt and uncle were amenable to allowing parents to continue visiting N.H.

The juvenile court could reasonably conclude that severing N.H.’s relationship with parents would not deprive N.H. of a substantial, positive emotional attachment such that N.H. would be greatly harmed. (*In re Angel B.* (2002) 97 Cal.App.4th 454, 466.) There is no evidence that the parent-child relationship was anything more than that of a friendly visitor or nonparent relative. N.H. did not become extremely upset when visits

ended, indicating there was not such a strong parent-child bond that N.H. would suffer detriment by the court terminating parental rights and allowing her prospective adoptive parents to adopt her. Testimony that N.H. called parents “Mommy” and “Daddy” carries little persuasive weight in defining the nature of the relationship, since N.H. was only three and a half at the time of the section 366.26 hearing and there was no evidence of parents actually serving a parenting role during their one- to two-hour weekly, supervised visits. At one point, after mother completed a rehabilitation program, mother’s visits were unsupervised and longer but, after about two months, mother relapsed again on drugs and her visitation was reduced to shorter, supervised visits.

Although N.H. lived with mother during N.H.’s first nine months, mother left her with other people overnight without provisions, resulting in N.H.’s removal. The remainder of N.H.’s life in foster care amounted to about 31 months or over three-fourths of N.H.’s life. While in foster care, N.H. was placed with her paternal uncle and aunt, who wish to adopt N.H. At the time of the section 366.26 hearing, N.H. had lived with her prospective adoptive parents for five months and was closely bonded to them. They had provided N.H. with a stable home, which mother and father had failed to do.

“[I]nteraction between parent and child will usually confer some incidental benefit to the child. [Citation.] To overcome the statutory preference for adoption, the parent must prove he or she occupies a parental role in the child’s life resulting in a significant, positive emotional attachment of the child to the parent.” (*In re B.D.* (2008) 159 Cal.App.4th 1218, 1234.) Parents have not established this.

Furthermore, “[w]hen applying the beneficial parent-child relationship exception,

the court balances the strength and quality of the parent-child relationship in a tenuous placement against the security and sense of belonging that a stable family would confer on the child. If severing the existing parental relationship would deprive the child of ‘a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.’ [Citation.]” (*In re B.D.*, *supra*, 159 Cal.App.4th at pp. 1234-1235.)

Here, parents have not established that N.H. would be greatly harmed by terminating parental rights or that the benefit from continuing the parent-child relationship outweighs the well-being N.H. would gain in a permanent home with adoptive parents. (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) The juvenile court therefore reasonably concluded that parents did not meet their burden of establishing that their visitation and bond with N.H. required the court to apply the beneficial parental relationship exception. (*In re Bailey J.*, *supra*, 189 Cal.App.4th at pp. 1315-1316.)

V

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON

J.

We concur:

HOLLENHORST

Acting P. J.

RICHLI

J.